

FINAL VERSION

Officially approved by the Chair and Board at the Alpine, Texas GNEB Board Meeting, October 24-26, 2006, subject to edits duly incorporated into text that follows

Meeting Summary/Minutes

The Good Neighbor Environmental Board Meeting

**Omni Hotel
675 L. Street
San Diego, California**

July 18-19, 2006

**Meeting Theme:
Environmental Protection and Border Security along the U.S. Mexico Border**

Note: The members of the Good Neighbor Environmental Board have requested that the following caveat be inserted into all Board meeting minutes: The minutes that follow reflect what was conveyed during the course of the meeting being summarized. The Board is not responsible for any potential inaccuracies that may appear in the minutes as a result of information conveyed. Moreover, the Board advises that additional information sources be consulted in cases where any concern may exist about statistics or any other information contained within the minutes.

Note: The U.S. Environmental Protection Agency, Office of Cooperative Environmental Management, has administrative responsibility for the Board.

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The Good Neighbor Environmental Board

**Omni Hotel
627 L. Street
San Diego, California
July 18-19, 2006**

Meeting Summary/Minutes *DRAFT*

**Meeting Theme:
Environmental Protection and Border Security along the U.S. Mexico Border**

Day 1 – Tuesday, July 18, 2006

(9:30 a.m.)

Meeting Participants:

Non-Federal Board Members

- Paul Ganster, Ph.D., Director, Institute for Regional Studies of the Californias, San Diego State University, Chair, San Diego, California
- Amanda Aguirre, CEO/President, Regional Center for Border Health, Inc. San Luis, Arizona
- Christopher P. Brown, Ph.D., Associate Professor, New Mexico State University, Las Cruces, New Mexico
- Michael P. Dorsey, Chief, San Diego County Department of Environmental Health, Hazardous Materials Division, San Diego, California
- Edward Elbrock, Rancher, Malpai Borderlands Group, Animas, New Mexico
- Gary Gillen, President, Gillen Pest Control, Richmond Texas
- Rosario Marin, Secretary, California State Consumer Services Agency, Sacramento, California
- Jennifer A. Montoya, U.S. Program Director, Chihuahuan Desert Conservation Project, World Wildlife Fund, Las Cruces, New Mexico
- Stephen M. Niemeyer, Texas Commission on Environmental Quality (TCEQ), Austin, Texas

DRAFT/DRAFT/DRAFT

- David Randolph, Border Coordination Officer, Arizona-Mexico Commission, Phoenix, Arizona
- Douglas S. Smith, Director, Corporate Environmental Safety and Health, Sony Electronics, Inc., San Diego, California
- Robert Varady, Ph.D., Deputy Director, Udall Center for Studies in Public Policy, University of Arizona, and Professor of Environmental Policy, Tucson, Arizona
- Ann Marie A. Wolf, President, Sonora Environmental Research, Tucson, Arizona

Federal Board Members

- James Stefanov, U.S. Geological Service, U.S. Department of Interior, Austin, Texas
- Marilyn DiSirio, ATSDR, Department of Health and Human Services, Atlanta, Georgia
- Shannon H. Sorzano, Deputy Assistant Secretary for International Affairs, Department of Housing and Urban Development, Washington, D.C.

Resource Specialists and Agency Alternates

- Hector Aguirre, EPA Region 9
- Miguel Flores, Director, Water Quality Protection Division, EPA Region 6
- Sally Spener, Public Affairs Officer, International Boundary and Water Commission, El Paso, Texas
- Derrith Watchman-Moore, Deputy Director, New Mexico Department of the Environment

Consejo, SEMARNAT Representative: Flavio Olivieri

EPA/OCEM Staff and Management

- Rafael DeLeon, Director, Office of Cooperative Environmental Management, EPA
- Elaine Koerner, GNEB Designated Federal Officer (DFO)
- Geraldine Brown
- Lois Williams
- Juan Zepeda Valdez (Intern)

Speakers:

- Honorable Denise Moreno Ducheny, California State Senator
- Enrique Villegas, Secretary of Ecology, Baja California.
- Michael Hance, Field Operations Supervisor, U.S. Border Patrol
- Diane Takvorian, Executive Director, Environmental Health Coalition
- Michael Dorsey, Chief, Hazardous Materials Division San Diego County Department of Environmental Health (DEH)
- Leonardo Hurtado, Program Manager, SAIC, for Inspection Technology and Homeland Security Equipment in Border Crossings
- Barbara Maco, Border Coordinator for Emergency Preparedness and Response, USEPA Region IX
- Flavio Olivieri, Liaison, Consejo Consultivo de Desarrollo Sustentable

- Ing. José Luis Sánchez, Gupo Ambiental del Noroeste
- Mike White, Conservation Biology Institute
- Tina Terrell, Forest Supervisor, Cleveland National Forest

Public Commenters:

- Jennifer Neeley, Defenders of Wildlife
- Rick Van Schoik, Southwest Consortium for Environmental Research and Policy (SCERP)
- Oscar Romo, Tijuana River National Estuarine Research Reserve
- Daniel Newbold, UCSD
- Melody Sees, Los Coyotes Band of Indians
- Jim Peugh, San Diego Audubon Society
- Jorge Garcés, Managing Director, NADBank
- Lorena Lopez Powers, EPA San Diego Border Office

Guests :

- Javier Avila, Office of State Senator Ducheny
- Edward Cardenas, San Diego Fire Department
- Deanneka Goodwin, Office of Congresswoman Susan Davis
- David Heilig, USDA
- Alven Lam, HUD
- April Lee, Native American Environmental Protection Coalition
- Doug Liden, EPA
- Suzanne Michel, University of San Diego
- Charles Mallon, San Diego
- Brian Martin, Border Patrol, El Cajon, California
- Nick Martorano, EPA San Diego Border Office
- Katie Meehan, University of Arizona, Tucson
- Suzanne Michel, Independent Scholar
- Jessica Piekeilek, University of Arizona
- Jose C. Pierre, Tijuana, Mexico
- Oscar Romo's students from UCSD: Ryan Moreland, Tae Park, Alice Tsing, Amelia Giacalone, Franco Ocampo, Lawrence Chang, Edward Janowicz, Chris Wong, Cecilia Lavaniga, Daniel Neabold, Mitesh Patel, Cecilia Gonzalez
- Christin Rubin, California State and Consumer Services Agency
- Ron Saenz, San Diego Association of Governments (SANDAG)
- Stephen Siciliano, BNA
- Paula Stigler, Pala Band of Mission Indians
- Sean Sullivan, Sierra Club
- Rick Van Schoik, SCERP
- Tomas Torres, Director, EPA San Diego Border Office
- Julieta Valdez, San Marino

Background

The Good Neighbor Environmental Board (GNEB or the Board) is an independent advisory committee that is managed by the U.S. Environmental Protection Agency (EPA). It advises the U.S. President and Congress on good-neighbor practices along the U.S.-Mexico border. The focus is on the environmental and infrastructure needs of the U.S. states that are contiguous to Mexico.

Welcome and Introductions

*Rafael DeLeon, Director, Office of Cooperative Environmental Management (OCEM), EPA, welcomed board members and guests to the July 2006 meeting of the Good Neighbor Environmental Board (GNEB). He welcomed the Honorable **Denise Moreno Ducheny, California State Senator** and **Enrique Villegas, Secretary of Ecology, Baja California**. He thanked **Elaine Koerner, Designated Federal Officer (DFO)** for her work with the GNEB and introduced **GNEB Chair Paul Ganster, Ph.D.***

Opening Remarks

Dr. Ganster, Chair, explained that the GNEB meets three times each year, two times in border communities and once in Washington, DC. It is important for Board members to interact with people in border communities and listen to their concerns and issues. The GNEB's Ninth Annual Report is available and includes recommendations on transportation and the environment, and the issue of cross border migration and its effects on cultural and natural resources. The Tenth Report will examine the intersection of environmental protection and border security along the U.S.-Mexico border. Today's meeting would focus on problems and issues for the Tenth Report.

*Dr. Ganster introduced the Honorable **Denise Moreno Ducheny, California State Senator**, who represents the California border territory from Imperial Beach to the Colorado River. **Senator Ducheny** has been a leader in the California legislature in terms of forging cross-border relationships in Baja, California, Baja California Sur, and Mexico*

***Senator Denise Moreno Ducheny** said that tomorrow some members of the California Transportation Commission will come to look at border infrastructure issues. To protect the ecology on both sides of the border, it is important to recognize geological, rather than political lines. The Tijuana River Watershed is bi-national and drains water from both countries. Since the international sewage treatment plant is only primary treatment, sewage problems have been found along the ocean at Imperial Beach and in Coronado. The goal is to obtain secondary treatment, which is demanded by Federal and state law and requires action by Mexico.*

Bioterrorism and health concerns affect people on both sides of the border. Some diseases are air-borne and others are people-borne. About 40,000 people who live in Tijuana commute to work in San Diego using the San Ysidro border crossing. About 25,000 trucks a day cross at Otay Mesa, and a third crossing is being studied. One major problem is a disconnect between a new truck crossing, a

state inspection station, and the freeway system, so city streets have to carry the truckload for all the transport from Baja California to the major international Port of Long Beach in Los Angeles. Traffic congestion is a concern for health due to air pollution.

Border security, water resources, and wastewater are other problems that are shared between Mexico and the U.S. Tijuana is growing fast and is comparable to San Diego in population. Wildfires affect both sides of the border and require good emergency and fire fighting services. Protection and sharing of water resources is important, because California is an agricultural state and shares Colorado River water with six states and Baja California. People who reside in Tijuana spend about \$3 billion a year in San Diego, and as growth continues, improvements in environmental infrastructures for water resources, waste water, and solid waste will be needed. EPA helped to clean up the tire pile in Santa Neba, which would be a huge health hazard if it ever caught fire.

In this county, the Multiple Species Cogeneration Plan helps to preserve ecological corridors. Both Tecate and Tijuana politicians recognize that wildlife corridors are bi-national. The proposed security fences would be a problem for wildlife, so other ways need to be found to create border security. The 10 border-state legislators are meeting on a regular basis under the auspices of the Council of State Governments to work on border issues such as solid waste and air pollution. They are planning to develop a bi-national air quality group in San Diego-Tijuana, Mexicali-Calexico and the Imperial Valley. In San Diego-Tijuana local elected leaders and government officials will be brought together around shared watershed issues. *Senator Duchene*y closed by thanking GNEB for coming to San Diego to learn about their issues.

Chair Ganster introduced ***Enrique Villegas, Secretary for Environmental Protection in Baja California***, as an outstanding leader of cross-border collaboration who has worked closely with a number of California agencies to address environmental issues.

Enrique Villegas, Secretary for Environmental Protection, Baja California, said that it was important to find a balance among economic, social, environmental and security issues along the border. *Secretary Villegas* described the cross-border and bi-national efforts related to the environment, including BECC, NADBank, the Border 2012 program, and the 10-State Environmental Alliance. They are working to solve problems and influence policy in Mexico and the U.S. with the goal of sustainable borders.

The immigration issue affects Mexican communities, which have grown tremendously from internal migration and from people immigrating from the south. Growth has created problems with infrastructure, water, air, and the environment in general. Improvements in the quality of life in Tijuana and other Mexican communities would help to solve illegal immigration. Border security is not only fences, but quality of life. *Secretary Villegas* urged both sides to work together and to urge the federal governments of the U.S. and Mexico to maintain the current level of funding for border infrastructure and other issues. He said it is important to find ways to improve the environment, health, security, and communities in the border region.

Chair Ganster thanked the two speakers, and then asked Board members and audience members to introduce themselves. After the introductions, he introduced ***Michael Hance, Field Operations***

Supervisor, U.S. Border Patrol, who is assigned to Tactical Infrastructure Coordination and is concerned about the effectiveness of the infrastructure and its effect on the environment.

Speaker Presentations

Security Activities along the U.S.-Mexico Border

Michael Hance, Field Operations Supervisor, U.S. Border Patrol, reported that in the San Diego sector, he belonged to a Project Delivery Team that operates as a joint planning system and includes other disciplines such as environment, construction, engineering, project management, and cultural relations. *Mr. Hance* said he would discuss border issues based on his 22 years of experience with the Border Patrol and what he has learned from Team members.

Mr. Hance showed slides that depicted hundreds of illegal persons and a small group of criminals standing along the border near a barbed wire fence, all waiting for an opportune moment to enter en masse into the U.S. in the Tijuana River Basin. A subsequent request to Congress and the state of California resulted in the arrival of the military and the construction of a sturdier primary fence. Although the number of drive-throughs was reduced, people still could climb over the fence, and criminals could dig under it or launch cars over the fence.

Mr. Hance summarized the border infrastructure zone that included a primary fence, night-time stadium lighting, open observation areas, better roads, and a secondary fence. In 1996, Congress mandated a double fence along 14 miles of the border from the Pacific Ocean to the Otay Wilderness area. The fence covers the San Ysidro and Otay ports-of-entry. In the future, a tertiary fence will provide a boundary marker between Federal and private lands. In developed areas, the overall strategy is to stop vehicles at the first fence and allow a brief time to apprehend people before they get across the second fence where they hide in warehouses, trucks, and dumpsters. In the Otay Wilderness area, a different approach is used because there is more time to apprehend illegal crossers. The new fencing has reduced the number of crossers from 2,400 to 35 persons a day.

In the future, they will take advantage of the proximity of the Tijuana river water, the water filtration plant, and a sewage treatment plant to use recycled water to irrigate vegetation and for dust control. New fences and concrete water runoffs were built for erosion control and restoration of native vegetation.

In the Tijuana Estuary area, other security methods are used, including fly-overs and manpower-intensive foot patrols. In commercial areas, storm drains and tunnels are being used by smugglers to cross the border. The main problem is to maintain the manpower level needed to control border activities. In Imperial Beach, during 2005, 15,000 people were arrested and most of them returned to Mexico, but they were back in just a few days.

Mr. Hance discussed plans to control the criminal element, to reduce their operational imprint from 5000 to 200 acres along the border, and to restore the denuded area in the estuary to its natural environment. Placing a "Surf Fence" at the beach area has controlled illegal immigration and improved protection of migrating and nesting birds. In the wilderness area, trails are used by illegal

crossers, who kill the vegetation, which causes erosion and silting into coastal marsh areas, destroying bird and animal habitats.

The current infrastructure only protects 14 miles in west San Diego County. In the East County, the strategy is to use a technological fence of cameras and sensors, and vehicle barriers. More vehicle barriers are needed, because the International Fire Break created a lot of roads for smugglers of people and drugs to use.

Questions and Comments

In response to several questions from Board members, *Mr. Hance* explained that:

- The amount of Federal government funds used in this operation was \$68 million.
- The movement of illegal crossers from the California border area to Arizona was not the intention of the Border Patrol. In the East County, Arizona, New Mexico, and Texas, a team of Border Patrol agents and Emergency Medical Technicians, called Border Rescue and Trauma Unit (BORSTAR) was created to help people in distress. Operation Jump Start will help by bringing in the military to relieve pressure on the Border Patrol.
- For the first nine miles, fence construction was in compliance with The National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). In May 2005, U.S. Congress passed legislation granting a waiver of regulatory laws related to the environment for border security, which enabled construction to continue even though the Regional Water Regulatory Board wanted them to start the approval process all over again under CEQA.
- With regard to the type and length of fencing, the primary, heavy metal gauge fence stops vehicles, the second fence is 150 feet inside the primary fence and is aimed at stopping foot traffic, and the tertiary fence would protect private land. Fourteen miles of fencing cover this area and 6 miles cover Tecate.
- In the estuary and where the fence is built up, animals won't be able to migrate.

Community Right-to-Know and Border Security

Mike Dorsey, Chief, San Diego County Department of Environmental Health, Hazardous Materials Division, introduced ***Diane Takvorian***, a member of the Environmental Justice Advisory Committee, California Environmental Protection Agency, who started a grass-roots organization in the 1980s called the Environmental Health Coalition (EHC). *Ms. Takvorian* has played a key role in environmental issues and was instrumental in getting community-right-to-know laws passed in California.

Diane Takvorian, Executive Director, Environmental Health Coalition, provided an historical account of the Right-To-Know movement and legislation that enables the public and workers to obtain information about public health and environmental threats from toxic pollution and toxic

chemicals in the workplace and communities. The Environmental Health Coalition (EHC) started 25 years ago and works in the low-income areas of San Diego and Tijuana. Right-to-Know legislation has been passed in several states, including California, which led to Federal legislation. In 1982, San Diego County passed the first Community-Right-to-Know law that covered both workers and the community. In 1986, Congress passed the Toxic Release Inventory Act as part of the Superfund legislation. In 1986, California passed Proposition 65, the Safe Drinking Water Act, and the Toxic Enforcement Act.

As a result of these laws, there has been a reduction of atmospheric emissions of the 260 known carcinogens and reproductive toxins in California, and a 43 percent reduction in the U.S. Transparency has been one of the factors in leading industries to reduce their use of toxic chemicals, reduce their emissions, and to establish toxic release tracking systems. Trade agreements that incorporate Right-To-Know laws could protect workers in all countries. In Mexico, almost 60 percent of the electronics workers report inadequate safety training; 38 percent have no safety equipment; and worker injury rates are 250 percent higher than in comparable U.S. industries.

Metal and chemical hazards associated with the electronics industry include trichloroethylene (TCE) and lead poisoning of workers and their families. EHC attempted to compare chemical utilization in industries in Mexico and the U.S., but they found there was no systematic data collection. The EHC has developed a video titled, *Maquiladoras, City of Factories*, that demonstrates the experience of workers and community members who are exposed to toxic chemicals at work. NAFTA has not really improved public health or environmental quality and the HazTrack system has been cancelled.

In Colonia Chilpancingo, which is near the Mesa de Otay Industrial Park, there were 23,000 tons of contaminated wastes at a toxic waste site and the community did not know about it. Once the community learned about the site, they demanded clean-up. EHC and residents filed a petition with the CEC, which agreed that it was a grave risk to human health. In 2004, the collective signed an agreement with the Mexican government to clean up the site. EPA was helpful in making this happen. In Phase I, 900 tons of waste has been removed.

Ms. Takvorian mentioned the health risks to children from diesel fuel pollution resulting from the 60 percent increase in truck traffic. For example, in Ciudad Juarez, it is estimated that 231 children have died from the effects of diesel air pollution and 36,000 suffer from respiratory illnesses. In conclusion, Right-to-Know regulations need to be included in all international or bi-national trade agreements, such as NAFTA.

Questions and Comments

Douglas Smith, Sony Electronics challenged *Ms. Takvorian's* statements about the amount of lead poisoning from the computer industry. He said Sony Electronics has received the Impresa Segura title, which includes training and Right-To-Know and also has ISO-14000 certification at its Tijuana plant. The newer televisions have zero amounts of lead in the solder, and lead in picture tubes is vitrified. *Ms. Takvorian* agreed that technology has advanced, but that older televisions are still being manufactured. She asked if a list of the chemicals used by Sony would be available to the community. *Mr. Smith* responded that ISO-14000 has a requirement to inform the community. *Ms. Takvorian* said that Sony is a great model for other companies.

Stephen Niemeyer asked if the 2002 CEC report on Metales y Derivado was a factual record. *Ms. Takvorian* answered affirmatively and said the Mexican government tried to get the owner to clean up the site, but he refused and escaped to the U.S. The CEC report helped to highlight the contamination even though it has no enforcement powers. *Mr. Niemeyer* asked if any of her information was published in peer-review journals. *Ms. Takvorian* answered that they had an article on environmental health in NIEHS about pollution and the health impacts in the San Diego area. She said it is difficult to get information from companies to do a scientific study, and Right-to-Know is needed to get that information.

Shannon Sorzano asked if there was any information on the economic costs of implementing or not implementing the safety standards. *Ms. Takvorian* referred her to a study by Jane Hall at the University of California, Riverside, on the economic and public health costs.

Miguel Flores wanted to know if there were similar organizations to EHC in the border area and what could be done to promote more of them. *Ms. Takvorian* responded that the work on the development of the PRTR (Pollution Release and Transfer Registry) system in Mexico was an effort of many NGOs in both the U.S. and Mexico. These organizations are waiting for the release of TRI (Toxic Release Inventory) information in 2006, which will be useful to environmental organizations.

Michael Dorsey commented that Right-To-Know goes beyond notifying communities. Information on toxic substances is essential for first responders who work with accidents in these facilities on both sides of the border. This issue needs to be addressed for security also.

Emergency Response and Border Security: The Environmental Connection

Chair Ganster introduced *Michael Dorsey*, a GNEB member and a representative on the Border 2012 California Baja-California Emergency Response Task Force, which works on improving environmental conditions at the border.

Michael Dorsey, Chief, Hazardous Materials Division, San Diego County Department of Environmental Health (DEH), announced that *Ricardo Castellanos* was unable to attend, but that *Barbara Maco* from EPA Region 9 and the Border Coordinator on the Task Force will cover part of the presentation. Using a series of slides, *Mr. Dorsey* described the emergency response system in San Diego, Border 2012, and the Task Force activities.

In San Diego County, they have 50 fire departments that work together under a Joint Powers agreement, and five of those are Native American. Both DEH and the City of San Diego's Fire Department respond to chemical emergencies in San Diego County. The emergency response team is well-equipped and well-prepared to handle chemical emergencies compared to their counterparts in Tijuana. As part of a \$10.75 million settlement, \$50,000 was allocated to the Bomberos in Tijuana for such basics as detection equipment and hazard protection clothing. Emergency response teams have three ports-of-entry through which to transport equipment: San Ysidro, Otay Mesa, and Tecate. The bi-national agreement to fight fires across the border is not the same for emergency responses.

The Border 2012 program is an off-shoot of the La Paz Agreement between Mexico and the U.S. It is a bi-national cooperative agreement on environmental protection that extends 62 miles on either side of the border. Border 2012 is a partnership at all levels of government that works from the local level up. Border 2012 addresses environmental challenges to: reduce water contamination, reduce air pollution, reduce land contamination, reduce pesticide exposure and improve environmental health. One objective is to establish chemical emergency advisory notification between Mexico and the U.S. Another objective is that by 2012, 50 percent of the contingency plans will be implemented, thus strengthening emergency preparedness, risk reduction, and counter-terrorism. There are six sister-city plans operating in EPA Region IX, and three bi-national emergency preparedness response task forces.

The San Diego-Tijuana Emergency Preparedness Task Force's goal is to reduce chemical and hazardous exposures. A communication plan was signed in 2003 to designate which jurisdiction would respond to chemical emergencies and to establish a communication notification system for chemical emergencies. The plan does not allow U.S. responders to assist in Mexico for reasons of insurance, workers compensation, and sovereign immunity. This problem needs to be addressed, especially in view of a potential terrorist attack.

Other activities of the Task Force have included:

- A table-top exercise in Tijuana on how to respond to a release of ammonia from a tanker near the port-of-entry on the Mexican side
- An exercise to communicate with Mexico about a hazardous spill, which failed because Mexico had changed their phone numbers to fax numbers
- Updates of the sister city plan to account for bio-terrorism
- An emergency management institute to train Mexican first responders
- Collaboration with industry to plan for chemical spills, especially in Mexico
- Expedition of border crossing protocols, like radio systems
- Cooperation with Customs officials to allow equipment to cross the border
- Information booths at conferences in Mexico

Mr. Dorsey explained in detail the development of an Emergency Management Institute in Mexico similar to the California Specialized Training Institute to train first responders, fire departments, and emergency responders. Several organizations in Mexico have cooperated with the Task Force to establish the Institute, including the Autonomous University of Baja California, U.S. EPA, San Diego County, the Bomberos of Tijuana, the State Protección Civil agency, and PROFEPA. An advisory board with members from both sides of the border will provide advice on standardized curriculum and operation of the Institute in Mexico.

Barbara Maco, Border Coordinator for Emergency Preparedness and Response, USEPA Region IX, said she serves on the San Diego-Tijuana, Imperial County-Mexicali, and the Arizona-Sonora Task Forces. She also serves on an Inland Joint Response Team made up of many agencies in Mexico and the U.S. involved in emergency preparedness. She is a member of the Coast Joint Response Team with the Mexican Navy and the Coast Guard. *Ms. Maco* said she would discuss the accomplishments of the three task forces in Region IX.

Some of the accomplishments of the Task Forces included:

- The adoption of a Sister City Plan between Imperial County and the City of Mexicali to identify risks and develop plans to reduce the risk
- A meeting with 45 members of industry to introduce the new plan
- Facilitation of border crossings, which was led by the Mexican Consulate, to develop protocols to respond to natural and chemical emergencies.

The Sister City plans cover four states and six cities: San Diego, Tijuana, Yuma, Arizona, Calexico, San Luis Rio Colorado, and Mexicali along the border. If there is a hazard emergency, including nuclear, radiological, or chemical it would involve all the cities. Updating personal protection and communications equipment is the key to sustainable emergency preparedness and expedited border crossing. The plan this year is to exercise the Plan and the border crossing protocols.

There is a movement to establish the International Standard ISO-14000 for emergency management systems (EMS). The Nogales-Sonora Task Force certified Nogales businesses to that Standard. A similar program in Mexicali is focused on risk reduction, which involves industry workers, CANACINTRA, the Federal PROFEPA, Protección Civil, and Baja California. This program is focused on smaller businesses that will be certified to the Standard. EMS involves a systematic method of reducing emissions, an emergency plan, and sharing of information with the public.

In Arizona-Sonora, the task force met on Tohono O'odham Nation land to identify tribal preparedness and homeland security measures. A tri-national plan was developed between the Nation, the State of Sonora, and the State of Arizona to address a facility close to the Nation. *Ms. Maco* concluded by asking the GNEB to help them use the resources to address border security and protect the public health and environment of border communities.

Questions and Comments

Rosario Marin wanted to know if the emergency response task forces were preparing to meet a potential pandemic flu epidemic. *Mr. Dorsey* responded that the responders and the health department are working on a plan, but the task force is not. *Ms. Maco* added that the issue is being addressed under security and preparedness under the Security Prosperity Partnership Agreement between Mexico, U.S. and Canada. *Chair Ganster* thought this issue might be studied as part of the Tenth Report. *Ms. Aguirre* said that the States of Arizona and Sonora have been working on pandemic flu issues and communicable disease reporting especially related to the medical community and emergency personnel. *DFO Koerner* questioned whether this issue would come under the purview of the GNEB and added that EPA does have a Homeland Security Task Force and it is important to see how these issues intersect.

Douglas Smith asked about the role of private industry in responding to emergencies. *Mr. Dorsey* answered that industry does not play a major role in responses in the San Diego area. On the Mexican side, they are trying to contact industries to see if they could assist the Bomberos. *Ms. Maco* added that the Chamber of Commerce in Tijuana has an active training program for first responders. The CANACINTRA in Mexicali has a training program on risk reduction and is a key part of the Baja California Emergency Management Institute. *David Randolph* shared a concern

about an emergency gap between cities that would require the county, the state, and the Federal government to cooperate in a response. Addressing the geographic and jurisdictional gaps is part of the Arizona-Sonora Task Force concerns.

Cargo Screening Technology

DFO Ganster introduced ***Leonardo Hurtado, Program Manager, SAIC, for Inspection Technology and Homeland Security Equipment in Border Crossings***. *Mr. Hurtado* has a broad range of information and experience in the technologies available for border protection of hazardous wastes.

Leonardo Hurtado said he was a Business Development Director for Sales in Latin America and his territory is in Mexico and other Latin American countries. *Mr. Hurtado* described the kind of inspection systems SAIC manufactures for use at the border to detect illegal and hazardous substances in cars, trucks, and rail cars that cross the border. The goal is to detect these substances electronically without having to stop traffic for inspection. In Mexico, there are 54 systems scanning vehicles.

Different systems are used to scan rail cars, motor vehicles, and pallets at airports. In one case, they found \$17 million in drug money stuffed in cans of Jalapeño peppers and other places in a truck headed for Mexico. Some systems are located in towers along railroads and some are mounted on trucks. A system called “Relocatable” relies on gamma rays to detect illegal substances or cargos. In Mexico, applications are used to verify declarations and to detect contraband and nuclear substances. An analyst employed by Customs completes an inspection of a container in about 30 seconds. The systems look at variations in density and color and emitted radiation. Even false compartments can be detected.

Quick inspections reduce the idling time and pollution from motor vehicles. After an operator finds a suspicious area, then a secondary inspection is done to the container. These systems have enabled ports in Mexico to cut the amount of time a container stays in port from 11 to 2 days. The system captures pictures, license plates and the analyst’s voice. Systems are also used on containers that come into sea ports.

Questions and Comments

Chair Ganster asked what was the meaning of 98 percent reliability for gamma ray imaging. *Mr. Hurtado* said it was the amount of time the system is in operation.

Mr. Flores wanted to know if they took images before and after the border entry. *Mr. Hurtado* answered that they were working on a method to scan an image and clear it with Mexican customs in the U.S., then scan the cargo again in Mexico to see if there are any differences. For example, if a cargo comes from China into a port in Mexico, it could be scanned there and then scanned again in the U.S. *Mr. Flores* asked if there were ways to tell whether a container had been opened before it reached the U.S. destination. *Mr. Hurtado* said that systems are being developed that could be used inside containers to detect changes.

Public Comment Session

Seven people spoke in the public comment session.

Jennifer Neeley, Defenders of Wildlife, said the organization is concerned about the impact on the environment from Border Patrol activities to end illegal immigration. She referenced a report called “*On the Line*,” which states that the U.S. Border Patrol’s decision to funnel people out of urban areas into remote areas has caused massive environmental damage in Arizona. There are eight Federally-protected parks near Mexico-Arizona border. She felt that compliance with environmental laws was no longer a priority with the Border Patrol. There has been no biological opinion for security activities in the Tucson area since 1994, which is required under Section 7 of the Endangered Species Act. She stated that the Border Patrol has not complied with the National Environmental Policy Act. The Arizona Border Control Initiative has been underway for three years and no Environmental Assessment (EA) or Environmental Impact Statement (EIS) have been developed, since passage of the RealID Act that exempts the Secretary of Homeland Security from environmental laws.

The Defenders of Wildlife report recommends the following:

- Greater commitment to environmental laws by the Border Patrol
- Better environmental training for agents
- Increased funding for land management agencies
- Better planning for Border Patrol activities
- An increased willingness to cooperate with affected communities
- Development of a programmatic EIS for the Tucson sector to replace the 2002 EIS which was opposed by EPA and later retracted.

Rick Van Schoik, Southwest Consortium for Environmental Research and Policy (SCERP) spoke about the partnership between SCERP and the GNEB. In the SCERP’s Border Institute VI in 2004, the Consortium looked at trans-boundary ecosystems management, including watersheds. SCERP has both informed and used the recommendations in GNEB’s Sixth, Eighth, and Ninth reports. The Border Institute 9 in 2007 will be dedicated to the topic of border security, development and environment. There is tension among federal, state, local, and tribal governments over control of infrastructure activities that affect communities.

Oscar Romo, Tijuana River National Estuarine Research Reserve, was outraged as an environmentalist at the destruction of the last remaining, underdeveloped, coastal areas in Southern California. Archeological sites more than 10,000 years old and endangered plants have been destroyed. In the Tijuana River Research Reserve, a restoration project was only able to restore 60 species or 10 percent of the native species.

Mr. Romo urged the government to fulfill its obligations under the Clean Water Act, the Clean Air Act, the National Environmental Protection Act, the Coastal Management Act, the California Coastal Act, the Endangered Species Act, the Management Environmental Policy Act, and the San Diego Multiple Species Act. He urged the GNEB to make recommendations to the President and

the U.S. Congress to find creative solutions, such as technology, to control the illegal crossing of people and products and to avoid the destruction of pristine border areas.

Melody Sees, Los Coyotes Band of Indians, stated her concerns about the lack of compliance with environmental laws when building the infrastructure, the impact of immigrants and Border Patrol activities, insurance for Tribal emergency responders, and the potential pandemic Avian Flu preparations. The tribes are trying to prepare emergency response plans, but they do not get any funds from the Homeland Security Act or from states or counties. The Indian Health Councils and health clinics are not being included in the vaccination plans for the avian flu pandemic. She thanked the GNEB for recognizing tribal governments and including them in their discussions.

Jim Peugh, San Diego Audubon Society, was adamant that the three miles of triple fence was not needed in Smugglers Gulch, Lichty Mesa, Tecate, and Mount Cuchumá because these are environmentally-sensitive, non-urban areas that only require a single fence. The triple fence was opposed by the San Diego Audubon Society and a number of other environmental commissions under NEPA and the Coastal Commission because of damage to the environment. The Coastal Commission's recommendations were rejected for alternatives that were less environmentally damaging, cheaper, quicker to implement, maintainable, and would lower health and environmental impacts.

The Tijuana River Valley and the Tijuana Estuary both will be impacted from the silt and erosion that will occur as a result of five million cubic yards of dirt used to fill Smuggler's Gulch and from sloping the mesas. **Mr. Peugh** urged that the GNEB report recommend that these projects be revised to lower the environmental impact.

Jorge Garcés, Managing Director, NADBank, said they had their first public Board meeting in June 21, 2006, in San Antonio, Texas. At the Board meeting, changes were made in the Bank's fiscal policies to give them more flexibility in lending and investment activities. The Board approved several loans for projects along the U.S-Mexico border. At present, there are 94 projects and the Bank is participating in loans and grants totaling about \$700 million out of a total project cost of \$245 million. In the lending area, the loans have doubled in value from \$105 million to \$245 million. The lending will continue to grow and grant money will decrease.

The Board approved a \$50 million grant from their capital for which guidelines will be submitted to the Board by September 21st. The grants will be primarily for water, wastewater, and solid waste. The grants will require a lending component from NADBank or other banks. The idea is to bring down the cost of subsidizing these projects by using the interest earned. **Mr. Garcés** feels that these two institutions have done a good job of funding environmental infrastructure along the border to benefit 6-7 million people.

Lorena Lopez-Powers, San Diego Office, EPA, requested that a note be made about the collaboration with Mexico on the issues addressed by the Homeland Security Officer.

Speaker Presentations

Update on Mexico's Northern Border Environmental Advisors

DRAFT/DRAFT/DRAFT

Flavio Olivieri, Liaison, Consejo Consultivo de Desarrollo Sostenible, briefly described the Consejos who advise the Mexican Secretary of the Environment. In Mexico, sustainable development has a larger emphasis on social and economic development compared to the U.S. For example, in the Sea of Cortez, several tribes depend on fishing, so sustainable development incorporates protection of these resources. The advisory board provides recommendations for SEMARNAT (the Secretaría de Medio Ambiente y Recursos Naturales), whose officials have to respond to the recommendations. *Sr. Olivieri* went on to describe the structure of the Consejos, which include six regional councils and a national council. Councils have representation from a broad spectrum of sectors and two designated representatives, one from the state and one from the state congress. The 32 states elect their own representatives.

At both the national and regional level, there are technical working groups that focus on different areas such as water, air, natural areas, and inter- or bi-national issues. All of the recommendations are voted on by the regional and national councils. SEMARNAT staff then sends the recommendations to the appropriate officials. To date, about 14 percent of the recommendations have resulted in policy changes. White papers are published every three years containing all of the recommendations. One of the major successes was environmental planning and zoning for the Sea of Cortez, which is being extended to the whole coastline. *Sr. Olivieri* showed a chart that depicted the responses to all the recommendations.

Sr. Olivieri is a member of the International Relations and Border Affairs Technical Committee that has developed multi-lateral agreements which they are monitoring to ensure Mexico's compliance. One of their concerns is the implementation and expansion of the Emissions and Pollution Transfer Registry to ensure that standardization is achieved on types of chemicals, levels of storage, and measurements, and reporting to enable tracking of chemicals. Standardization in reporting would help emergency responders.

Another concern is about the level of funding going to Border 2012, NADBank, and the Commission for Environmental Cooperation (CEC). Grants are important to small communities for projects. Other concerns are the impact of security on the environment, and the waiting time at the border for trucks, which causes air pollution. *Sr. Olivieri* closed by inviting members to the next meeting of the Northeast Consejo on October 12-13, 2006, the Northwest Consejo meeting on September 21-22, 2006, in Mazatlan, and the National Council meeting on November 9-11, 2006, in Mexico City.

Questions and Comments

In response to a question from *Chair Ganster*, *Sr. Olivieri* said that the Consejos are concerned about security and environmental issues, including air pollution, damage to ecosystems from fencing, and endangered species. He recommended that Mexico be more involved with security plans for the border, especially with technology that would need to be operated on both sides of the border.

DFO Koerner asked about the process for reformulating Consejo recommendations. *Sr. Olivieri* answered that recommendations could be reformulated if they were sent to the wrong place, or if they were dissatisfied with the response, or to improve the quality of the recommendation. If the recommendation is very specific, the success rate is higher.

Chair Ganster wanted to know about the relationship between the Consejos and SEMARNAT. *Sr. Olivieri* said it was collaborative.

At that point, *Mr. Garcés* clarified the difference between the funding of the BECC, whose funds come from the governments of Mexico and the U.S., and the NADBank, which generates its own funds.

In response to a question from *Manuel Flores*, *Sr. Olivieri* said that public participation came about through the NGOs' elected representatives, who had the obligation to be in communication with their groups and provide their ideas to the appropriate Consejo.

Building Security and Environmental Protection into the Supply Chain

Doug Smith introduced ***Ing. José Luis Sánchez, Grupo Ambiental del Noroeste*** who would speak on building security and environmental protection into the supply chain from the standpoint of the private sector in the services industry. (*Ing. Sánchez spoke in English and was difficult to understand, so the transcript has missing words.*)

Ing. Sánchez said that his company transported hazardous materials and other solid waste for the maquiladora industry in Mexico. Maquiladoras order materials from the U.S. and the materials and products are returned to the U.S. Some of the waste is disposed of in the U. S. and some is disposed of in Mexico. The company has to comply with both the Mexican and U.S. RCRA and Customs regulations. A lot of paperwork was required from Mexican environmental agencies to bring the waste into the U.S., but in Mexico no one has to be informed. The company makes out a manifest and then disposes of the waste at a site.

In Mexico, there are regulations from the Department of Transportation about handling of hazardous waste transportation, including labeling. The General Law of Ecological Equilibrium provides all of the information about the environmental aspects of hazardous waste disposal for both the U.S. and Mexico. Mexico recently passed a law defining all of the terms in waste handling or disposal. One problem is that Federal and state regulations are different.

To dispose of waste in the U.S., the company in Baja California must use the Otay Mesa port-of-entry, which requires prior approval by USEPA 48 hours in advance and is only allowed 3 days a week. The problem is that it takes 10 hours to cross the border. Chemical materials cross the border everyday from the U.S. to the maquiladoras in Tijuana, but it is different for hazardous waste. There is only one landfill in Mexico for hazardous waste, so there is a movement toward recycling and thermal energy recovery.

There are emergency response plans for hazardous waste spills, and people are trained in the U.S. All of the hazardous waste materials have to be classified as to whether they are corrosive, explosive, toxic, flammable or infectious waste. The company keeps complete documentation for what is in the load, so in an emergency, people will know how to handle it. The Tijuana Fire Department has a HazMat team that can respond to emergencies. If more assistance is needed, they call the Civil Protection Agency and the Police Department.

SAIC provides technical assistance to users of chemicals in Mexico who need assistance with handling hazardous wastes. For the supply chain, transporters have to supply proper equipment for

HazMat transportation, and training for the drivers on how to handle the wastes in an emergency. SAIC also promotes the use of less toxic chemicals in manufacturer's production, urges them to recycle, and provides training in the handling of chemicals. Personnel in mechanical shops that repair cars are educated on how to handle wastes for environmental protection.

Questions and Comments

Chair Ganster wanted to know what happened to the requirements to return waste to the country of origin that were part of the phase-out of the maquiladoras under NAFTA. *Sr. Sanchez* answered that the maquila industry is still operating and the waste is being returned to the country of origin. U.S. waste is separated from the Mexican waste. *James Stefanov* asked what proportion of the 30,000 tons of waste that goes back to the U.S. is from materials that cross from the U.S. to Mexico. *Sr. Sánchez* estimated that it was about 80 percent. *Doug Smith and Stephen Niemeyer* said it was very difficult to compare materials going in and waste coming out.

Chair Ganster asked about the location of the nearest Mexican hazardous waste disposal to Tijuana, and about cost comparisons between transporting the waste to the U. S. vs. Mexico. *Sr. Sánchez* said some waste is sent to Hermosillo for recycling and energy recovery, and that waste disposal was cheaper in Mexico. In response to a question from *Elaine Koerner* about whether the promotion of less toxic chemicals was good business, *Sr. Sánchez* said that the maquila industry is trying hard to change in the direction of using less toxic chemicals, such as water-based chemicals, especially if it is more efficient and cheaper.

Sr. Sánchez further explained that the Mexican army does not get involved in emergency responses to major chemical disasters, but only to major community disasters, such as big storms. His company does not work with waste disposal for communities, but is working with small mechanical shops to properly handle waste oil. *Sr. Sánchez* also did not see any trend in purchasing chemical supplies from Mexico for companies working in Mexico.

Potential Positive/Negative Impacts of the Triple Fence on Flora and Fauna

Chair Ganster introduced **Mike White, Conservation Biology Institute**, who has been working on transborder conservation to facilitate the joining of habitat through establishment of corridors, migration of mammals, etc. *Dr. White* invited Board members to learn more about California's Bi-National Conservation Initiative. He discussed the impact of the security fence on the border region between Southern California and Northern Baja California, where the flora and fauna have built up over the centuries and are quite unique and diverse. *Mr. White* illustrated the diversity of the area with slides.

There are indirect and direct impacts of the triple fence. Direct impacts include loss of vegetation and sensitive species, and water quality degradation. Most of the controversy is over the 14-mile fence in the Tijuana Estuary Research Reserve, which is listed under the RAMSTAD Convention. Indirect impacts include water run-off, light pollution, encroachment of exotic plants, and restricted

movement of wildlife. Because of the habitat threats, some of the endemic species are now on the endangered species list.

The direct impact in the Smuggler's Gulch area would impact 62 acres, although not all of it is pristine habitat. In California, there is a Natural Community Conservation Act which serves to set aside areas that are to be preserved in exchange for areas that will be developed. The fencing project would destroy some of the area designated to be preserved. Several Federal agencies are signatories to this Act, including the Fish and Wildlife Service, the Bureau of Land Management, and others. On the U.S. side, the Border Patrol is planning to level the mesas to make a road that is flat to maintain vehicle speeds, which will take about 5.5 million cubic yards of dirt, leaving the mesas subject to erosion and sedimentation of the canyons. The rise in estuary levels would impact plant life. *Mr. White* discussed the impacts in terms of connectivity of habitats and the severing of ecosystems between Mexico and the U.S., thus inhibiting the movement of animals.

Other activities that are degrading the environment are off-road vehicles, human traffic, trail and road construction, trash, fires, and development due to population growth. In the Environmental Impact Statement, some of the roads would be closed and the land re-vegetated, which would be a positive step. Illegal immigration has brought about 4,500 miles of people trails in an area 66 by 6 miles, so this is another cause of degradation. The increase in the number of fires could cause the loss of some plant species, such as the Tecate Cypress. The largest cause of habitat loss is urbanization and population growth, some of which is due to illegal immigration and security activities.

Mr. White's final point was that there are opportunities to enhance border security and still maintain the environment. A triple fence is not needed all the way to Yuma. Preservation of the natural environment provides more time for interdiction in some areas, and technology could be used to protect the environment and secure the border.

Questions and Comments

In response to questions from *Shannon Sorzano* regarding the different impacts of fencing layers and the ability of animals to adapt, *Mr. White* said that the longer the fence and the more layers, the more impact there is on large and small animals. He was unable to say whether species could adapt, but ecological processes are bi-national, which a triple fence would destroy.

Christopher Brown suggested having a discussion with the Border Patrol regarding the contribution of some off-site acreage to mitigate the effects of the fencing, even though they are not signatories to the Multiple Species Conservation Plan. *Mr. White* added that it would be important to be involved in a discussion before an EIS plan is developed for the rest of the border. *Chair Ganster* suggested a subcommittee to develop an advisory letter that could include avoiding the negative impacts and creating some positive scenarios. He felt that Border Patrol officials such as *Mr. Hance* would be open to GNEB's input.

Mr. Brown asked if the plan was completed for the rest of the San Diego border. *Suzanne Michel* responded that new Federal legislation was needed to modify the plan rather than regulatory changes. *Ms. Montoya* asked for an explanation of connectivity in the urbanized area of Tijuana and a clarification of *Mr. White's* recommendation for the last three miles. *Mr. White* said that where

there was urbanization, connectivity was lost, but certain canyon areas to the East need to be protected. The major goal in the West was to minimize impacts, restore damage, and find alternatives. To the East, a natural area is needed along the border for protection of natural resources and security.

Mr. Randolph asked for clarification on the segments where the fence imposes an environmental issue. *Mr. White* answered that from the edge of the Otay Mountain to the border is a sensitive habitat. In the Tijuana estuary, the biggest effect is sedimentation. The Border Patrol is opting for the present plan to implement security. *Mr. Dorsey* hoped that the Board would be able to use his ideas for the Tenth Report. *Mr. Varaday* commented on the effect of the fence on binational relationships. *Mr. Niemeyer* stated that the issue of transboundary environmental impact assessments needs to be addressed.

Effects of Undocumented Human Crossings on National Forest Work

Chair Ganster introduced ***Tina Terrell, Forest Supervisor, Cleveland National Forest***, who would discuss the effects of undocumented immigrants on the national forest.

Tina Terrell stated that the mission of the Forest Service in the border area is to protect the public, its employees, and the natural resources in the 1.5 million acres of National Forest lands within the Southwest Mexican border in the states of New Mexico, Arizona, and California. The Cleveland National Forest is composed of 500,000 acres located in San Diego, Orange, and Riverside counties, with 22 land miles along the border, mostly in San Diego County. *Ms. Terrell* then described the recreational opportunities, history, unique habitats, and cultural landscapes of the forest area.

In 1995, the Forest Service worked with 42 Federal, State, and local partners to create the Border Agency Fire Council to deal with the environmental degradation from undocumented immigrants, fire and life safety, and emergency response in cooperation with Mexican agencies across the border. In 1997, the Forest Service staffed a Border Fire Prevention and Resource Protection Crew to extinguish illegal campfires, remove trash, repair infrastructure such as fences, construct erosion control structures, and monitor the effect of increased human presence on natural resources.

Supervisor Terrell described some of the damage that has occurred despite their efforts, including the burning of over 370 acres of national forest, dumping of tons of trash, destruction of vegetation and wildlife habitat, erosion, and public safety issues caused by the creation of hundreds of miles of illegal trails. The definition of a wilderness area in the Wilderness Act of 1964 was “an area untrammelled by man.” Water resources are fouled by trash pollution and abandonment of stolen vehicles. Fires started by immigrants endanger the natural habitat and the lives of vacationers, Forest Service personnel, and other agencies’ employees, such as the California Department of Forestry and Fire Protection and Mexican fire-fighting agencies.

As more people are living closer to the wilderness areas in San Diego County, the biggest concern is loss of life from wildfires. In 1998, the Departments of Agriculture and the Interior signed The Mutual Aid and Assistance Agreement with the Mexican counterparts to allow emergency responders to cross the border to help fight fires.

Ms. Terrell described the criminal activity by both immigrants and citizens near the border. Armed bandits have threatened, robbed, raped and assaulted undocumented immigrants, and smugglers have rammed law enforcement vehicles. The Cleveland Forest has five law enforcement officers to cover 500,000 acres. Law enforcement efforts to control smugglers of controlled substances such as marijuana, which is illegally grown in large quantities in the Forest, divert Forest Service officers from resource protection activities. In conclusion, the effect of undocumented immigrants and smugglers on natural resources and public safety is a major concern of the Cleveland Forest Service.

Questions and Comments

Mr. Randolph asked about various legal and insurance issues that have obstructed emergency responders from crossing the border. *Mr. Terrell* said the fire protection agreement that was signed by the agency Secretaries in the U.S. and Mexico does not remove Federal responsibility for accidents. Government vehicles and equipment are taken across the border, but not airplanes.

Ms. Montoya asked if there were other uses such as grazing and forest extraction that have been impacted by immigration. *Ms. Terrell* said that in the Coronado National Forest, which is right on the border, cows can cross the border and graze in the forest and carry diseases into the U.S., so fence-cutting is an issue. In response to *Chair Ganster's* question about declining or increasing costs for fire protection, *Ms. Terrell* said that the Federal funding that established the fire-fighting crews was earmarked, and if this funding was removed, they would not be able to contain the fires.

Ms. Koerner explained the plan for the next day's business meeting and field trip. The Human Crossings Working Group would meet in the morning for breakfast. Members were asked to bring their suggestions for the Tenth Report to tomorrow's business meeting.

Adjournment: There being no further business, the meeting was adjourned at **5:20 p.m.**

Day 2: Wednesday, July 19, 2006

(8:08 a.m.)

Business Meeting

Board Members Present: *Paul Ganster, Ph.D., Chair, Amanda Aguirre, Michael P. Dorsey, Edward Elbrock, Gary Gillen, Rosario Marin, Jennifer A. Montoya, Stephen M. Niemeyer, P.E., David Randolph, Douglas Smith, Robert Varady, Ph.D., Ann Marie A. Wolf*

Federal Members/Alternates/Resource Specialists Present: *Hector Aguirre, Carl Edlund, Marilyn DiSirio, Miguel Flores, Shannon H. Sorzano, Sally Spener, James Stefanov, Derrith Watchman-Moore*

EPA Members Present: *Rafael DeLeon, Elaine M. Koerner, DFO, Geraldine Brown, Lois Williams*

Welcome

Elaine Koerner, DFO, opened the Business Meeting of the Good Neighbor Environmental Board by stating that the previous day's presentations were very informative and would be useful in developing the GNEB Tenth Report. *DFO Koerner* revised the agenda by moving the Approval of the Minutes to the end of the meeting and discussing membership issues and changes first. *DFO Koerner* thanked the Board for creating a climate where regardless of sector, political party, personal or cultural background, there was a spirit of open-mindedness, mutual respect, and an interest in learning from each other.

Membership Status and Issues

DFO Koerner reported on changes in the membership including the resignations of Len Smith, Department of Commerce, and his alternate Jacob Macias; and John Ritchie, Department of State. She also said that tribal member Ned Norris had resigned his Vice Chairmanship of the Tohono O'odham Nation, and may/may not be replaced as the tribal representative. Appointments to the GNEB are made by the EPA administrator, not by the person who steps down. The Board and EPA staff can recommend persons who would be appropriate for the GNEB.

In response to *Stephen Niemeyer's* question about whether a tribal representative had to be a tribal officer, *DFO Koerner* said that it was not a requirement. She also raised the possibility that the next tribal representative could be from a different tribe. *Douglas Smith* asked if the Department of Commerce representative would be from the economic development sector. *DFO Koerner* answered, as an aside, that by law, only a representative from one federal agency -- the Department of Agriculture -- is mandated, along with other agencies as appropriate. In response to *Mr. Niemeyer's* question, she replied that someone from the Economic Development Administration within the Department of Commerce had been deemed the most appropriate fit in the past. *Mr. Niemeyer* suggested that in selecting new members, one criterion should be to find someone who

could actively participate. *DFO Koerner* agreed that both active involvement and seniority were important, so that the person would have the ability to make things happen in his/her department.

Later in the meeting, *Rafael DeLeon* reviewed OCEM's efforts to obtain a representative from the Department of Homeland Security. They had contacted EPA's Office of Homeland Security and the White House Council on Homeland Security who identified a person to contact in DHS. The contact would be made the following week.

Tenth Report Preparations: Status of Workgroups

Context Workgroup

Jennifer Montoya reported on the status of the Context Workgroup as requested by Workgroup Coordinator *Christopher Brown*, who had had to leave the meeting early. *Ms. Montoya* showed three slides that depicted the status of this workgroup and mentioned the possibility of videoconferencing. *DFO Koerner* said video conferencing was an interesting idea, and that she also would like to discuss the idea of cross-workgroup fertilization. *Mr. Niemeyer* agreed that the workgroups were at a point when they needed to review what other workgroups had written. The workgroup coordinators had decided to have a teleconference in the coming week to discover and fill the gaps. *DFO Koerner* thought there might be some sections of the Materials Crossing and Human Crossing Workgroups that could be inserted into the Context Workgroup.

DFO Koerner announced that the Materials Crossing Workgroup would hold a teleconference on August 3, 2006, and the Human Crossings Workgroup would hold a teleconference on August 8, 2006. She suggested also setting up a call for the Context Workgroup, and asked for members to identify themselves. Context Workgroup members present included Robert Varady, Douglas Smith, and Gary Gillen. (Christopher Brown, the Coordinator, had left early.) It was decided to set a tentative date for the Context Workgroup call at 2:00 p.m. Eastern Time on August 8, 2006. *DFO Koerner* asked for the next iteration of the workgroup reports to be completed and sent to her office before the end of August, so that a full draft text could be shared with all Board members at the beginning of September, 2006.

Chair Ganster was concerned about the Spanish language translation of the Tenth Report, and suggested allowing time for review of the Spanish translation by Board members or Federal staff who were fluent in Spanish. *Rosario Marin* and *Miguel Flores*, *EPA Region VI*, offered to review the translation. *Shannon Sorzano* suggested that the State Department's Translation Services could also review the report. *Rafael DeLeon* said they were working towards obtaining a contractor for the translation and requested that members adhere to the deadlines for comments to Workgroup Coordinators and to *DFO Koerner's* office.

Human Crossings Workgroup

Jennifer Montoya, Workgroup Coordinator, reported that the Human Crossings Workgroup was going to review and restructure all of the relevant issues related to the Border Patrol activities and the impact on the environment. After reconfiguring the issues, the group would develop

recommendations. Next, they would identify information they don't have and assign members to obtain the information. The Human Crossings draft report would be available for the next conference call.

Materials Crossing Workgroup

Stephen Niemeyer, Workgroup Coordinator, said the workgroup met during breakfast the previous day. *DFO Koerner's* comments would be included as well as *David Randolph's* comments. Two major issues: tracking of hazardous waste, and emergency response. Both Customs and EPA have Electronic Manifest Systems to detect hazardous materials, which might create some confusion. He said the workgroup had prepared a draft and would have a conference call on August 3rd to review the changes. He appreciated EPA's involvement, because comments could be obtained from the Office of Solid Waste and Emergency Response and OCEM in Washington, DC, and EPA Regions VI and IX.

Chair Ganster mentioned the value of having some photographs in the Tenth Report such as photos that showed the border with and without the triple fence, and one of a truck getting scanned by the SAIC imager.

Discussion: Role of Federal Agency Representatives

DFO Koerner led a discussion of the role of Federal agency representatives in view of the recusal of several Federal agency representatives on the last GNEB Comment Letter. OCEM coordinated a conference call for the Federal representatives on June 28, 2006. Participants included John Ritchie, State Department; Carl Edlund and colleagues Miguel Flores and Bill Luthans, EPA Region VI; Jeanne O'Leary for Linda Lawson of Department of Transportation, Sally Spener, IBWC Alternate; and Manuel Ayala, USDA Alternate. The group consensus was that Federal members should be full participants, speak for their agency, take responsibility for clearance if needed, avoid lobbying or unethical conduct, and be able to recuse themselves from Comment Letters if needed. On the call, the representatives had requested additional time to adequately provide their agency's response to letters and reports.

Mr. Stefanov added that it takes a long time to get clearance from the Solicitor's Office of the Department of Interior. It would be a conflict of interest for him to sign onto a Comment Letter involving NADBank, because the USGS is involved in providing resources and support to that agency. *Shannon Sorzano* agreed that the agency clearance process took a long time. She suggested several alternatives for Federal agency representatives: 1) be non-voting members; 2) recuse themselves, if needed to avoid conflicts; or 3) not send any letters. *Ms. Sorzano* quoted the Federal legislation that stated "the Board shall be composed of representatives of the U.S. Government," so she felt that their participation was essential.

The discussion yielded the following comments:

- If there is an obvious conflict of interest or a benefit, then members should be able to recuse themselves.

- The Chair signs the letter, so individual members are not signing the letter, nor are the Federal agencies.
- People are appointed with the full recognition that the Board's mission is to advise the U.S. President and Congress.
- Being in consensus with a Comment Letter by an agency may imply political approval, and this could not be done if the letter was in opposition to the President's or agencies' positions.
- A recusal may be viewed as a negative statement, not a neutral one.
- A statement could accompany letters or reports saying that the recommendations are a result of consensus and that input was received from all Board members.
- If there is serious disagreement, perhaps the letter should not be forwarded.
- Positions need to represent the whole Board, not just the non-Federal representatives, because then the Federal representatives would not be needed.
- Consensus does not mean that there is not any disagreement.
- The Board was created to give the President advice, even if he disagrees with it.
- Recusal does not always mean opposition to the recommendations, but could mean lack of support or some other reason for not being in consensus.
- The Executive Branch agencies have to support the President's positions.
- In the past, Federal agencies have repeatedly and consistently endorsed GNEB's recommendations.

With regard to the triple fence, *Ms. Montoya* asked if the White House was in favor of it. *David Randolph* responded that the DHS, Customs and Border Protection, and the Border Patrol all favor a triple fence in urban or congested areas, but that a single, anti-vehicular fence could be used in wilderness areas to allow migration of animals.

Michael Dorsey proposed tailoring comment letters to be less political and also to allow minority positions. He added that, as a local government official, he may have to give advice that is contrary to that of the Board of Supervisor's policy. *Ms. Derrith Watchman-Moore*, speaking from the perspective of a cabinet-level position in the State of New Mexico's Department of the Environment, said that the GNEB needs representatives from the highest level of state government even though the Board may take positions contrary to those of some State Governments. The Board needs to maintain its independence. She described the State's Environmental Justice workgroup in which state employees had input, but did not vote.

Robert Varady reminded the group that after discussing an issue, the Board did *not* take a vote but, instead, arrived at a position that almost everyone could live with, i.e., consensus. Similarly, Cabinet members provide advice to the President and are not always in agreement. *Miguel Flores* thought that advice should be consistent with the mission of the Board and then should identify the Board's concerns with certain actions.

After asking members to comment on two documents in their meeting folders, a FAQ on Travel, and a Meeting Evaluation form, *DFO Koerner* summarized the points of the previous discussion as follows:

- Comment letters should be viewed on a case-by-case basis, depending on the topic and a particular agency's relationship to the topic.
- The way the topic is expressed could make a difference in whether it could be supported, not just the topic itself.
- The need for adequate time for review and comment is sometimes in conflict with the need for a timely comment letter.
- A standard Comment Letter statement is needed.

DFO Koerner then read a proposed standard statement: "This letter reflects the majority viewpoint of the Board." The Federal representatives present were in agreement that the statement was appropriate, although the word "majority" needed to be defined. *Mr. DeLeon* said the statement was in compliance with FACA legislation. He added that consensus is not required for advice letters. *Ms. Wolf* reading from the by-laws noted that a quorum, or 51 percent of members, is needed to transact business and that consensus is sufficient to forward a recommendation. *Mr. Niemeyer* agreed with using the word "consensus," as long as the rights of the minority were respected. *Mr. DeLeon* suggested using the word "abstain" instead of "recusal," because abstain was a neutral term and meant someone could not vote "yes" or could not vote at that time. *Chair Ganster* thought that both terms implied disagreement, but he suggested defining the word "consensus" in the By-Laws to indicate consensus did not mean complete unanimity. *Ms. Marin* added that recusal was used by the City Council when a member had a personal conflict and was not even part of the discussion. *Ms. Sorzano* said that although both abstaining and saying "no" should be allowed, the Board considers all opinions in the wording of advice letters.

Discussion: Draft Comment Letter – Triple Fence

Chair Ganster suggested putting together a committee to re-draft the Triple Fence Comment Letter to include concerns raised by some members. The letter should offer reasonable alternatives to address legitimate issues based on members' viewpoints, speakers' presentations, and the field trip. *Chair Ganster* volunteered to chair the committee, and *Gary Gillen* and *Christopher Brown* (original drafter) offered to work on the committee. Members were concerned with the tone of the present draft, some of the negative or judgmental statements, and the degree of specificity, but still wanted to find ways to ensure that security activities were less intrusive to the environment. It was decided to provide guidance to the committee at this meeting so that everyone could be heard. *Gary Gillen* said that as long as the minority opinion could be heard, then he would support the letter even if he was in disagreement.

Board Member Report-Outs

U.S. Department of Interior: James Stefanov, USGS, reported that on March 31, 2006, the DHS, USDA, and DOI signed a Memorandum of Understanding (MOU) regarding cooperative national security and counter-terrorism on Federal lands along the border. The MOU is nationwide and is intended to provide consistent goals, principles, and guidance related to border security operations, tactical infrastructure, public lands access, prevention of impacts, coordination of efforts, and implementation of environmental laws and regulations.

Mr. Stefanov alerted members to two other groups that are working on security and the environment: 1) the Border Land Management Task Force (BLMTF) that is working on intergovernmental relations on the Arizona-Mexico Border; and 2) a BLM-funded, Southern Arizona project working to mitigate environmental damages resulting from illegal immigration and smuggling operations. He would forward fact sheets to members via email.

Texas Commission on Environmental Quality: Stephen Niemeyer, P.E., announced that Ralph Marquez had resigned as Commissioner of TCEQ on March 31, 2006. The President appointed *Mr. Marquez* to the Joint Public Advisory Commission to the North American Commission on Environmental Cooperation, so he will still be working on environmental issues. *Mr. Niemeyer* invited members to the August 25, 2006, Annual Border Governor's Conference to be held in Austin, Texas.

University of Arizona – Udall Center for Studies in Public Policy: Robert Varady, Ph.D., distributed copies of several documents including a chapter and a bibliography on the San Pedro River, an article on NAFTA and the environment, and reports on the Udall Center. He was pleased that Stephen Niemeyer and Jorge Garces added some helpful revisions on the NAFTA article. In January, Governor Napolitano and the Arizona legislature created the Arizona Water Institute, a joint effort of the University of Arizona, Arizona State University, and Northern Arizona University, to enhance research on water at the universities. *Dr. Varady* is the co-chair of a task force on border water research.

EPA Region VI – Hector Aguirre, Region IX, spoke for Miguel Flores and reported on the following projects along the border:

- Air pollution work by the International Joint Advisory Committee (IJAC) in the El Paso area has resulted in El Paso's being in compliance with U.S. air quality standards for ozone and carbon monoxide.
- In Ciudad Juarez, SEMARNAT has approved the city's new air quality program, PRO-AIRE.
- In Region 9, the Border 2012 and IJAC are looking at various ways to reduce vehicle emissions, such as using oxygenated gasoline and dedicated commuter lanes in San Diego, Tijuana, and the Mexicali, Imperial Valley areas.
- Two initiatives for reduction of air pollution are the Blue Skyways Collaborative and the West Coast Diesel Collaborative to include renewable energy, clean diesel, diesel retrofits and other projects
- In the area of water, EPA and BECC recently set priorities for water and wastewater infrastructure projects. BECC received 180 proposals at a cost of \$754 million.
- On August 14, 2006, EPA Region VI and SEMARNAT will host a Regional Scrap Tire Workshop in Matamoros, Mexico.
- Two projects, in the Arizona-Sonora area will address migrant waste; one is waste clean-up in cooperation with the Tohono O'odham Nation.
- The Baja California Emergency Management Academy that will increase training capacity in the border region is nearing completion.

World Wildlife Fund (WWF): *Jennifer Montoya* reported on three projects: 1) the Chihuahuan Headwaters Program; 2) an NRCS conservation grant on agricultural water-saving technology; and 3) an NRCS partnership on a water conservation program on Salt Creek in Texas. *Hector Arias*, Eco-Regional Coordinator for the World Wildlife Fund has resigned, so *Ms. Montoya* is the interim coordinator. The Headwaters Program works with communities to control erosion of grasslands in the Montane Forest in the Sierra Madre. In cooperation with U.S. AID and SEMARNAT, the WWF has trained local residents to build structures to prevent erosion and sedimentation of the Conchos Basin. SEMARNAT has agreed to continue to hire these crews and to train other Comunidades on how to build the structures.

Malpai Borderlands Group: *Edward Elbrock* said the Malpai Group is working with the BLM, ranchers, and students to clean up migrant trash. The Jaguar habitat in New Mexico and Arizona has been declared non-critical, but the Defenders of Wildlife may fight the decision in the courts. *DFO Koerner* noted that the trash project should be included in the Human Crossings section of the Tenth Report.

New Mexico State University: *Christopher Brown, Ph.D -- Jennifer Montoya* reported out for Dr. Brown, explaining that she and *Dr. Brown* are on the Paso del Norte Watershed Council. *Dr. Brown* is developing a database on the water resources in the Paso del Norte region. *Ms. Montoya* used a series of slides to describe some of *Dr. Brown's* on-going projects:

- The Paso del Norte goal to provide seamless access to bi-national water resources data
- A Federal Highway Administration Project.
- A SCERP and USGS project to develop a roadmap for border-wide geographic information systems (GIS) capability, whose purpose is to integrate data sets from the U.S. and Mexico. *Mr. Stefanov* added that the hydro data sets and the land cover-land-use data sets have been integrated. *Chair Ganster* said that SCERP and USGS have signed an MOU to continue to work on data integration.

New Mexico Environment Department: *Derrith Watchman-Moore* described a \$5.9 million dollar water and wastewater infrastructure program promoted by the Governor of New Mexico and the Department of the Environment to help 23 colonias in the border area and in Albuquerque. The colonias are without adequate water and wastewater treatment, which has lead to food-borne illnesses, water-borne diseases, low-birth rates, etc. Even if the colonias residents are illegal, the children go to the public schools. There were no state or national efforts to address these public health problems. The Governor signed an Executive Order on environmental justice in New Mexico, and the project is part of that effort.

Mr. Watchman-Moore believes this is a national issue which could be addressed by the GNEB. *DFO Koerner* asked if there was a link to the Tenth Report and the issue of colonias, border security, and the environment.

Discussion: Reporting to the President and Congress

Rafael DeLeon, Director, OCEM, described the four advisory committees that OCEM manages: GNEB, the National Advisory Committee for Environmental Policy and Technology (NACEPT), the National Advisory Committee (NAC), and the Governmental Advisory Committee (GAC). He explained that the EPA Administrator had asked him to develop a framework for measuring their effectiveness and to raise the visibility of OCEM. In discussions with the Administrator, the Deputy Administrator, and the Chief of Staff the importance of having the advisory committees work link to the Administrator's and President's priorities was stressed.

To measure effectiveness, it was decided to look at the distribution and promotion of the annual reports. The report is introduced at a press conference and provided to the Executive Office of the White House, the Chair of the Council on Environmental Quality, the Speaker of the House, Congressional members from border states, the Oversight Committees, Board members and their organizations. The CEQ Chair, *James L. Connaughton*, responds to the GNEB on behalf of the Executive Office of the President. *Mr. DeLeon* said the report's release ought to be visible to the government and the public.

Mr. DeLeon and DFO Koerner developed a standard operating procedure (SOP) to help identify issues on which the President and CEQ Chair would like to have advice. The first step would be to meet with the CEQ Administrator on a regular basis to obtain a list of issues. At the next GNEB meeting, members would discuss the CEQ list as well as its own issues. About 18 months later, a report would be issued. He thought it was important to provide advice that was needed by the President. The draft SOP was sent to CEQ three weeks prior, and when CEQ feedback is received, the SOP will be shared with the GNEB.

Board members made the following comments on the SOP for identifying issues:

- The SOP does not include Congressional input on issues, and ways need to be found to solicit their priorities, such as from the environmental subcommittees and staff, as well as the Congressional Border Caucus.
- The Board needs to provide advice on border environmental issues deemed to be important and on which it has the expertise to address, although expertise could be obtained from outside experts if needed.
- Ways to improve the GNEB reports' impact is important to discuss, such as reporting to the Border Trade Alliance or the U.S.-Mexico Chamber of Commerce
- The meeting with the CEQ Chair should be an exchange of ideas.
- The response letter should come from the President, not from CEQ, and be printed in the next year's report.
- The GNEB letterhead could include the names, titles, and the residence of members.

DFO Koerner thanked everyone for their suggestions, and stated that the next agenda items would be Approval of the Minutes of the March 13-14, 2006 meeting, the distribution of the Ninth Report, and the Alpine GNEB meeting attendance. The Comment Letter on the Triple Fence was set aside

and it was agreed that the Board would wait to see the revised draft that three members had agreed to produce.

Approval of Minutes from the March 13-14, 2006 Washington, D.C. Meeting

Chair Ganster asked for approval of the minutes of the March 13-14, 2006 meeting. *Ms. Spener* suggested revising the minutes regarding the discussion on lack of support for the NADBank on Page 24 as follows: “*Further discussion revealed that there are concerns among government officials in the United States and Mexico regarding NADBank progress in funding projects. These concerns have prompted suggestions that the two governments may reduce or withdraw support for the NADBank.*” *Mr. Niemeyer* suggested deleting “government officials,” because there were other persons also concerned. His suggestion was accepted by *Ms. Spener*. *Chair Ganster* said the previous wording was a correct statement from Gil Diaz, but the suggested wording would be more diplomatic. *Mr. Niemeyer* thought the comment from U.S.-Mexico Chamber of Commerce President Al Zapanta -- that the Chamber was opposed to the loss of funding for NADBank -- should be included. He would send *DFO Koerner* an email regarding the exact wording. *Rosario Marin* moved and *Chair Ganster* seconded the approval of the minutes with the changes discussed. The minutes were approved as discussed.

Other Business

DFO Koerner asked members to send her information on where they had distributed copies of the Ninth Report, explaining that it also was useful as a baseline for distributing the Tenth Report. A count was made of the persons who would attend the October 24-26, 2006 GNEB meeting in Alpine, Texas, and the field trip. The Planning Committee is working on the agenda and field trip. People who had plane reservations close to the end of the field trip could be dropped off at the airport.

Rosario Marin reported that she had received a response from *Bob Benson* regarding the potential Pandemic Influenza event at the border. *Mr. Benson* said his office reviewed the Pandemic Influenza plan for California and their suggestions for a bi-national plan were adopted in the State plan. A Pandemic Influenza Workgroup meets quarterly and focuses on public outreach and epidemiology. They are developing an Emergency Communications Response Plan, which includes a notification component. *Ms. Marin* added that there is a California Office of Bi-National Border Health.

Mr. DeLeon asked members to fill out the Meeting Evaluation form and stated that the technology was now in the room to show the video clips from an earlier speaker. Video clips were then shown to members.

Adjournment:

Chair Ganster adjourned the meeting at **12:06 p.m.**